

PATENT COOPERATION TREATY

From the:
INTERNATIONAL SEARCHING AUTHORITY

To:

James & Wells
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PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Applicant's or agent's file reference 43283/X373		Date of mailing (day/month/year) 06 JUL 2005
FOR FURTHER ACTION See paragraph 2 below		
International application No. PCT/NZ2005/000058	International filing date (day/month/year) 29 March 2005	Priority date (day/month/year) 25 March 2004
International Patent Classification (IPC) or both national classification and IPC Int. Cl. ⁷ G01N 1/10, G01F 23/22, A01J 7/00		
Applicant SENSORTEC LIMITED et al		

1. This opinion contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the opinion
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input checked="" type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer STEPHEN CLARK Telephone No. (02) 6283 2781
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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/NZ2005/000058

Box No. I Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

- type of material

a sequence listing
 table(s) related to the sequence listing
- format of material

in written format
 in computer readable form
- time of filing/furnishing

contained in the international application as filed.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority for the purposes of search.

3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE
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Box No. IV Lack of unity of invention

1. In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has:
 - paid additional fees
 - paid additional fees under protest
 - not paid additional fees
2. This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
 - complied with
 - not complied with for the following reasons:

The characterising features of claims 1 and 9 are different.

Claim 1 characterises the device by operating the fluid controller to allow sample extraction after minimum volume detection.

Claim 9 characterises the device by the use of two distinct sensors capable of detecting different characteristics of the fluid.

I do not consider there to be a shared "technical relationship" between the claims if these features are what characterise the inventions.

4. Consequently, this opinion has been established in respect of the following parts of the international application:

- all parts
- the parts relating to claims Nos.

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Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims 1-57	YES
	Claims	NO
Inventive step (IS)	Claims 1-57	YES
	Claims	NO
Industrial applicability (IA)	Claims 1-57	YES
	Claims	NO

2. Citations and explanations:

1. RU 2236120
2. US 5052341
3. WO 2004/111613
4. WO 1991/002948
5. DE 2746589

Novelty (N), Inventive Step (IS) Claims 1-57

None of the citations alone, or in obvious combination, disclose all of the features of any of the claims.

In particular, the separation of a single phase sample from the multiphase fluid into a well with detectors to sense a minimum volume of the single phase fluid and actuate an extraction valve was not found.

Citation 1 appears to have level sensors and makes reference to metering with reduced foam, but there is not enough information to determine that it is for the purpose of sampling, rather than purely foamless milk flow.

Citation 2 is similar to citation 1 in that a level detector indicates when a single phase fluid (milk without foam) is found in the chamber, but there is enough information to show that it is for the purpose of milk flow without foam, rather than sampling.

The citations show valve opening dependent on detectors and more than one detector for foam detection, but none of them have all of the features for the purpose of sampling from a flow line.